

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

APRIL FERGUSON et al.,

Plaintiff,

v.

NORTH KITSAP SCHOOL DISTRICT et
al.,

Defendant.

CASE NO. 3:23-cv-05921-DGE

ORDER ON MOTION FOR LEAVE
TO FILE SECOND AMENDED
COMPLAINT (DKT. NO. 31),
MOTIONS TO APPOINT
COUNSEL (DKT. NOS. 32, 37),
AND RELATED AMENDMENTS
AND PRAECIPES (DKT. NOS. 34,
35, 36)

This matter comes before the Court on Plaintiffs' motion for leave to file a second amended complaint (Dkt. No. 31); Plaintiffs' praecipe to that motion (Dkt. No. 36); Plaintiffs' first motion to appoint counsel (Dkt. No. 32); Plaintiffs' amendments and praecipes to that motion (Dkt. Nos. 34, 35); and Plaintiffs' second motion to appoint counsel (Dkt. No. 37).

On October 22, 2024, the Court issued an Order stating:

A parent cannot settle a pro se lawsuit on behalf of a minor without counsel, as a parent cannot bring a pro se lawsuit on behalf of a minor without counsel. *See Johns [v. County of San Diego]*, 114 F.3d [874,] 877 [(9th Cir. 1997)]. Accordingly, the Parties may not proceed with the current Settlement Agreement so long as M.F. goes unrepresented. It appears that the Parties have two discrete courses of action they may choose to adopt. First, the Parties can re-negotiate and modify their Settlement Agreement to clarify and

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confirm that any claims M.F. may have are specifically excluded from the Settlement Agreement. In that case, the Court will grant the Ferguson Parents' motion to file a new amended complaint that asserts claims brought only on the Ferguson Parents' behalf. Alternatively, if the Ferguson Parents in fact seek to include M.F.'s individual claims in the purported Settlement Agreement, no further amendment is needed and the Court will seek to appoint counsel for M.F.

(Dkt. No. 42 at 6–7). On November 8, 2024, Plaintiffs submitted a status letter informing the Court: “Plaintiffs . . . have conferred with Defendants’ counsel [and] . . . have decided to proceed with the filing of a Second Amended Complaint . . . that expressly removes M.F. as a plaintiff.” (Dkt. No. 44 at 1–2.) In the letter, Plaintiffs further represented that “the parties have agreed to re-negotiate their Settlement agreement, which will be presented to the Court at the time the parties reach resolution and seek dismissal of the case.” (*Id.* at 2.) On November 15, 2024, Plaintiffs filed the Second Amended Complaint. (Dkt. No. 45.) The Second Amended Complaint only asserts claims on the Ferguson Parents’ behalf. (*Id.* at 102–114.)

Accordingly, Plaintiffs’ motion for leave to file a second amended complaint (Dkt. No. 31) is GRANTED. Plaintiffs’ first and second motions to appoint counsel (Dkt. Nos. 32, 37) are DENIED as moot.

The Parties SHALL enter a combined joint status report and discovery plan as required by FRCP 26(f) and Local Civil Rule 26(f) by January 15, 2025. The Clerk of the Court is directed to Calendar this event.

Dated this 18th day of November, 2024.



David G. Estudillo
United States District Judge